

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

OAK BROOK PARK APARTMENTS,  
LLC,

Plaintiff,

vs.

UNITED SPECIALTY INSURANCE  
COMPANY,

Defendant.

**8:22CV219**

**ORDER**

Liberty has provided documents pursuant to third-party subpoenas. Defendant United Specialty Insurance Company seeks additional documents, and other electronic information related to topics regarding repairs at the subject property and the pre-loss condition of the property. For files related to the exterior condition for the time frame at issue, Liberty has a storage unit with files organized into bins/totes/boxes/file cabinets. Files related to interior condition are considered tenant files and kept on site at the relevant property. The issues discussed during the call on July 19, 2023, related to the exterior condition of the subject property.

After conferring with the parties and a representative for third-party Liberty Property Company, and upon consideration of Rule 1 and the proportionality factors, I find it would be unduly burdensome to require Liberty, a third-party owned and operated by a single individual, to personally search for all documents and files responsive to the Defendant's requests. Accordingly, Liberty will be ordered to cooperate and make certain files and documents available, but the cost and labor involved in responding to Defendant's requests will largely be borne by Defendant.

IT IS ORDERED:

1) For Physical Files:

Liberty and defense counsel will cooperate to select a time or timeframe when Defendant or Defendant's agent(s) or counsel can review the documents. Liberty will identify the cabinets, boxes, totes, or bins which may contain responsive documents. Defendant will review the documents within those locations, copy any relevant materials found, and return the original documents to the location within the cabinets/boxes/totes/bins from which the documents were retrieved. Defendant will bates-stamp the documents collected from Liberty's files and then make a second set of copies. This second set shall be provided to Plaintiff's counsel.

2) For Maintenance Records and Work Orders:

Liberty will search its AppFolio system for supporting documentation as to each of the identified work orders, and by email or cloud transfer, provide a digital copy of these documents to counsel for both parties.

3) For Emails:

Using the search terms provided by Defendant, Liberty will engage Run Networks<sup>1</sup> to search Liberty's primary and archive servers for emails responsive to Defendant's requests. Liberty is permitted to review the list of any files located and it can object to providing the documents to Defendant based on relevancy. Unless Liberty is objecting to disclosure of the emails located, copies shall be provided to counsel for both parties. The cost of the search will be paid by Defendant.

Dated this 19th day of July, 2023.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge

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<sup>1</sup> Liberty's retained IT company.